

PLANNING COMMISSION MINUTES OF SEPTEMBER 26, 2005

2005-0717 - Appeal of a Decision by the Director of Community Development denying a Tree Removal Permit for a Canary Palm Tree. The property is located at **1115 Polk Avenue** (near Leota Ave) in an R-1 (Low-Density Residential) Zoning District. SD (APN: 161-26-031)

Gerri Caruso, Principal Planner, presented the staff report. In summary, staff recommends denial of the appeal and to uphold the decision of the Community Development Director to deny the Tree Removal Permit.

Chair Hungerford opened the public hearing.

Matt Tavlin, applicant, thanked the Planning Commission for the opportunity to speak. He said there are several outstanding factors that he wanted brought to the attention of the Commission that he feels are in line with the City's criteria for tree removal. He said to remove a tree, one of three criteria must be met. The criteria are that the tree is either diseased or damaged, the tree proposes a potential hazard to people or property, or the tree restricts the owner's or neighbor's ability to enjoy reasonable use or economic potential of the property. He said his original letter focused on criteria two and three. He said that criteria two exists in this case and discussed supporting documentation from a vector control report, and his State Farm agent's assessment. The assessment concluded that even with continued maintenance, the presence of this tree presents a potentially hazardous environment. He addressed the third criteria and referred to pictures provided showing that the size of the root ball has made a good portion of the backyard unusable and that he feels that this could affect the resale value of home. He presented a drawing showing what the current yard design is like and a second drawing showing what they would like to do with the backyard, including the addition of two trees if the removal of the palm is approved. He concluded by saying that the removal of the palm tree will create a more open environment, provide greater economic value of the home and more reasonable use for themselves, family and friends to enjoy.

Comm. Moylan asked Mr. Tavlin, who recently purchased the home, if he received a price break because the tree was in the middle of the yard. Mr. Tavlin said no and said they bought the house "as is." Comm. Moylan asked him if he assumed he could remove the tree. He said that when they bought the house it had a rotting deck and huge planter box. When they began taking out the deck and planter box out they found the area had a lot of roots. He said when they bought the house they intended to take the tree down and put pavers in to have greater use of the yard.

Comm. Simons clarified with the applicant that part of the issue is the square footage of the root ball and secondarily the "critters." The applicant confirmed these are his concerns and that they are both equally pertinent.

Chair Hungerford closed the public hearing.

Comm. Babcock asked **Leonard Dunn**, Street Tree Program Manager, what an arborist recommends for routine maintenance for rodent problems. He said if the fronds are removed that helps take away nesting places. He said this particular tree trunk has been well maintained. Comm. Babcock asked how frequently the fronds need to be removed. He said the fronds should be removed once a year.

Comm. Simons said he has seen tree shields around some tree trunks used to prevent rodents and asked Mr. Dunn if the City had ever used any of these. Mr. Dunn said that he has seen banding on trees, but that the City does not use this method. Comm. Simons said that palms are often easily transported and asked if this is a tree that could be transported. Mr. Dunn said it could be dug up and moved. Comm. Simons asked if the tree could be moved over and a deeper hole dug with the root ball to be buried deeper. Mr. Dunn said that is a possibility as palms can be pruned back, moved and that the trunk could be buried deeper than it currently is.

Comm. Klein said the report indicates that this tree has an estimated remaining life of 20 to 40 years and asked how old he thinks this tree is. Mr. Dunn said that this tree is probably 15 to 20 years old. Comm. Klein asked about rodents and if they could possibly be attracted to the night blooming jasmine that is also on the property. Mr. Dunn said that is possible, but that either way Sunnyvale does have rodents and depending on the type of rodent, some like to be higher up and others are ground rodents.

Comm. Moylan moved that the appeal be granted and allow the tree removal permit. Chair Hungerford seconded it.

Comm. Moylan said this is a very nice tree. He said criteria three is the most persuasive as the tree is in the middle of the yard and this is preventing the owner from the full use of the backyard. He said he was told on his site visit that it would require a crane to move this tree and that getting a crane into the yard would be very difficult. He said the rodent issue is not as persuasive, but that he feels the roots are a trip hazard.

Chair Hungerford said he used the same rationale as Comm. Moylan and does not see the rodent issue as convincing enough to remove the tree. He said having the tree in the middle of the backyard could severely limit the use of the yard.

Comm. Babcock said she will not be supporting the motion as she cannot make the findings. She said cutting the tree down will not prevent the rodent problem and that the previous owner worked around the tree to enjoy the yard.

Comm. Simons said he will not be supporting the motion and agrees that the rodent issue would not be prevented by cutting the tree down. He mentioned a similar situation that a homeowner built up the ground around the root ball of a palm and made the area more useable and that when the homeowner sold the home it sold well. He said for consistency, based on previous projects and past motions, that he cannot support this tree removal permit.

Comm. Klein said he will not be supporting the motion as the tree is in good condition and he finds it hard to make the findings.

Vice Chair Fussell said he will not be supporting the motion and would have liked to see this with the deck. He said that the palm tree provides a nice canopy and that he thinks that some creativity can be applied to work with the tree in the yard.

The motion failed 2-5, with Vice Chair Fussell, Comm. Babcock, Comm. Klein, Comm. Simons and Comm. Sulser dissenting.

Comm. Babcock moved for Alternative 1, to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Simons seconded.

Final Action:

Comm. Babcock made a motion on item 2005-0717 for Alternative 1, to deny the appeal and uphold the denial of the Tree Removal Permit. Comm. Simons seconded.

Motion carried 5-2, Chair Hungerford and Comm. Moylan dissenting.
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This item is not appealable.